

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0867-MSW-E **TCEQ ID:** RN103073383 **CASE NO.:** 33719
RESPONDENT NAME: Robert Choate dba Pop's Tire Shop

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Pop's Tire Shop, 1949 Woodworth Boulevard, Port Arthur, Jefferson County

TYPE OF OPERATION: retail tire facility

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Dana Shuler, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2505; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Robert Choate, Owner, Pop's Tire Shop, 1949 Woodworth Boulevard, Port Arthur, Texas 77640
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 23, 2007</p> <p>Date of NOV/NOE Relating to this Case: May 8, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p>AIR/WATER/WASTE</p> <p>1) Failed to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground. Specifically approximately 5,000 tires were being stored on the ground and in open and unlocked trailers at the Facility [30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a) and TEX. HEALTH & SAFETY CODE § 361.112(a)].</p>	<p>Total Assessed: \$5,250</p> <p>Total Deferred: \$1,050 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$140 (remaining \$4,060 due in 29 monthly payments of \$140 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 15 days after the effective date of this Agreed Order, obtain a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): Tire Transporter No. 26972



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	14-May-2007	Screening	25-May-2007	EPA Due	
	PCW	5-Jun-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Robert Choate dba Pop's Tire Shop		
Reg. Ent. Ref. No.	RN103073383		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	33719	No. of Violations	1	
Docket No.	2007-0867-MSW-E	Order Type	1660	
Media Program(s)	Municipal Solid Waste	Enf. Coordinator	Dana Shuler	
Multi-Media		EC's Team	EnforcementTeam 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5% Enhancement **Subtotals 2, 3, & 7** \$250

Notes The Respondent received one NOV for the same or similar violation at the site in the past five years.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

Before NOV NOV to EDP RP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$456 **0% Enhancement*** **Subtotal 6** \$0
Approx. Cost of Compliance \$10,000 **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$5,250

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$5,250

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,250

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction **Adjustment** -\$1,050

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$4,200

Screening Date 25-May-2007

Docket No. 2007-0867-MSW-E

PCW

Respondent Robert Choate dba Pop's Tire Shop

Policy Revision 2 (September 2002)

Case ID No. 33719

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103073383

Media [Statute] Municipal Solid Waste

Enf. Coordinator Dana Shuler

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust:
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent received one NOV for the same or similar violation at the site in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 25-May-2007

Docket No. 2007-0867-MSW-E

PCW

Respondent Robert Choate dba Pop's Tire Shop

Policy Revision 2 (September 2002)

Case ID No. 33719

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103073383

Media [Statute] Municipal Solid Waste

Enf. Coordinator Dana Shuler

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 328.56(d)(2) and 328.60(a) and Tex. Health & Safety Code § 361.112(a)

Violation Description

Failed to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground, as documented during an investigation conducted on February 23, 2007. Specifically approximately 5,000 tires were being stored on the ground and in open and unlocked trailers at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

91

Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two quarterly events are recommended from the February 23, 2007 to May 25, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$456

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent Robert Choate dba Pop's Tire Shop
Case ID No. 33719
Reg. Ent. Reference No. RN103073383
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000	23-Feb-2007	22-Jan-2008	0.9	\$456	n/a	\$456

Notes for DELAYED costs

Estimated cost to register as a tire storage site. Calculated from date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$456

Compliance History

Customer/Respondent/Owner-Operator: CN602632416 CHOATE, ROBERT Classification: AVERAGE Rating: 6.00
 Regulated Entity: RN103073383 POP'S TIRE SHOP Classification: AVERAGE Site Rating: 6.00
 ID Number(s): TIRES REGISTRATION 26972
 Location: 1949 WOODWORTH BLVD, PORT ARTHUR, TX, 77640 Rating Year: 9/1/2006 Repeat Violator: NO
 TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: June 14, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 25, 2002 to May 25, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Dana Shuler Phone: (512) 239-2505

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/08/2007 (542399)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 Date: 08/23/2005 (398809)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.56(a)(1)
 30 TAC Chapter 328, SubChapter F 328.56(d)[G]
 Description: Failure to obtain a generator registration and monitor for vectors.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 328, SubChapter F 328.63[G]
 Description: Failure to comply with scrap tire facility requirements.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ROBERT CHOATE DBA POP'S TIRE
SHOP
RN103073383

§
§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-0867-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Robert Choate dba Pop's Tire Shop ("Mr. Choate") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Choate appear before the Commission and together stipulate that:

1. Mr. Choate owns and operates a retail tire facility at 1949 Woodworth Boulevard in Port Arthur, Jefferson County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and Mr. Choate agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Choate is subject to the Commission's jurisdiction.
4. Mr. Choate received notice of the violations alleged in Section II ("Allegations") on or about May 13, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Choate of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Five Thousand Two Hundred Fifty Dollars (\$5,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Mr. Choate has paid One Hundred Forty Dollars (\$140) of the administrative penalty and One Thousand Fifty Dollars (\$1,050) is deferred contingent upon Mr. Choate's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Choate fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the penalty payments, the Executive Director may require Mr. Choate to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Sixty Dollars (\$4,060) of the administrative penalty shall be payable in 29 monthly payments of One Hundred Forty Dollars (\$140) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Choate to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Choate to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Choate have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Choate has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Choate is alleged to have failed to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground, in violation of 30 TEX. ADMIN. CODE §§ 328.56(d)(2) and 328.60(a) and TEX. HEALTH & SAFETY CODE § 361.112(a), as documented during an investigation conducted on February 23, 2007. Specifically, approximately 5,000 tires were being stored on the ground and in open and unlocked trailers at the Facility.

III. DENIALS

Mr. Choate generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Choate pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Choate's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Robert Choate dba Pop's Tire Shop, Docket No. 2007-0867-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Mr. Choate shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Agreed Order, obtain a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 TEX. ADMIN. CODE §§ 328.56 and 328.60; and
 - b. Within 30 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality

P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

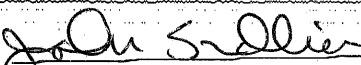
3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Choate. Mr. Choate is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Choate fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Choate's failure to comply is not a violation of this Agreed Order. Mr. Choate shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Choate shall notify the Executive Director within seven days after Mr. Choate becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Choate shall be made in writing to the Executive Director. Extensions are not effective until Mr. Choate receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Choate in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Choate, or three days after the date on which the Commission mails notice of the Order to Mr. Choate, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Robert Choate dba Pop's Tire Shop
DOCKET NO. 2007-0867-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

Date

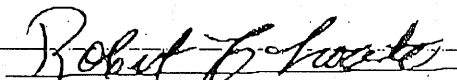
2/20/2008

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

Date

2-11-08

ROBERT CHOATE
Name (Printed or typed)

Title

Owner

Authorized Representative of

Robert Choate dba Pop's Tire Shop

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph I of this Agreed Order.

